



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,605	10/23/2003	Sundaresan Ramamoorthy	200207938-1	6770

22879 7590 06/24/2009  
HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER
----------

HOANG, DANIEL L

ART UNIT	PAPER NUMBER
----------	--------------

2436

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

06/24/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM  
ipa.mail@hp.com  
jessica.l.fusek@hp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/690,605	<b>Applicant(s)</b> RAMAMOORTHY ET AL.	
	<b>Examiner</b> DANIEL L. HOANG	<b>Art Unit</b> 2436	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 6/02/09 have been fully considered but they are not persuasive.

Applicant argues the following:

Whipple does not disclose or suggest "wherein a type of network device associated with a received device-agnostic policy implementation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML)... each of said plurality of device translators being loaded after said type of network device is identified to translate said received device-agnostic policy implementation into corresponding device-specific implementations."

Examiner respectfully disagrees. Whipple teaches at paragraph 5, "A request broker receives a network API request component from a client, the network API request component including a description of a system API method to be called and one or more parameters to be used in executing the system API method. The parameters having one of multiple acceptable formats." Whipple further teaches, "The request broker communicates the return value in the internal format to the selected translator for translation of the return value from the internal format to the native format." At paragraph 6, Whipple teaches that the system can be implemented with various data representations including XML. Examiner views the parameters indicating the format to be translated as being analogous to the parsing of tags as claimed by applicant. It is also clear from the above cited paragraphs that the device translators are loaded after the type of network device is identified to translate received device agnostic policy implementations.

Based on the above, the rejections of the previous action are maintained.

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-17 are rejected under 35 U.S.C. 101 based on Supreme Court precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a particular machine or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780, 787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the particular machine to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

The mere recitation of the machine in the preamble with an absence of a machine in the body of the claim fails to make the claim statutory under 35 USC 101. Note the Board of Patent Appeals Informative Opinion Ex parte Langemyer et al.

Here, applicant's method steps are not tied to a particular machine and do not perform a transformation. Thus, the claims are non-statutory.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, and 6-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Whipple et al., US PGP No. 20040193912, hereinafter Whipple.

**As per claims 1, 10, and 18, Whipple teaches:**

A system for implementing a policy in a network, said system comprising:

a plurality of device-agnostic policy implementation, in which the device-agnostic policy implementations include non-security policy implementations;

*[see paragraph 5, request from client]*

*[see paragraphs 17 and 20 for examples of the requests that may be made]*

*Examiner views said requests as device-agnostic policy implementations.*

a plurality of network devices, at least two of said devices being dissimilar, wherein a type of network device associated with a received device-agnostic policy implementation is identified by parsing tags of data from said received device-agnostic policy implementation represented using Extensible Markup Language (XML); and

*[see paragraph 5, wherein the clients, server, and request broker are all viewed as network devices]*

*[see above response to arguments]*

a plurality of device translators, each device translator corresponding to a respective one of said plurality of network devices and one of said plurality of device-agnostic policy implementations, at least two of said device translators being dissimilar, each of said plurality of device translators being loaded after said type of network device is identified to translate said received device-agnostic policy implementation into corresponding device-specific implementations,

*[see paragraph 5, wherein the collection of translators translate from native formats into an internal format]*

*[see above response to arguments]*

wherein subsequent additions or maintenance of any of said plurality of network devices and any of said plurality of device-agnostic policy implementations are provided using device-agnostic files.

*[see paragraph 16, wherein Whipple teaches Hub system 12 includes one or more API adapters suitable for translating one or more API formats used by clients to a format appropriate for the hub API, each such format preferably having a corresponding API adapter. It is clear from this that each subsequent addition of any network devices are provided using the addition of another document created by an API adapter through translation of the additional API call. ]*

**As per claims 2 and 13, Whipple teaches:**

The system according to claim 1, wherein said device-agnostic policy implementation is selected from the group consisting of firewall, Virtual Private Network, Java 2 Enterprise Edition Application, and custom operating system.

*[see paragraph 6]*

**As per claims 3 and 14, Whipple teaches:**

The system according to claim 1, wherein said device-agnostic policy implementation implements a policy selected from the group consisting of access control, quality of service, backup, and availability.

*[see paragraphs 17, 20, and 28]*

**As per claims 4 and 12, Whipple teaches:**

The system according to claim 1, wherein said device translators are represented by Extensible Stylesheet Language (XSL) code.

*[see paragraphs 18 and 23]*

**As per claims 11, Whipple teaches:**

The system according to claim 1, wherein said device-agnostic policy implementation is Extensible Markup Language (XML) code.

*[see paragraphs 18 and 23]*

**As per claims 6, Whipple teaches:**

The system according to claim 3, wherein said policy is represented by Extensible Markup Language (XML) code.

*[see paragraphs 18 and 23]*

**As per claims 7 and 15, Whipple teaches:**

The system according to claim 1, wherein the device-specific implementation is represented by Command Line Interface (CLI) code.

*[see paragraph 23, "native format"]*

**As per claims 8 and 16, Whipple teaches:**

The system according to claim 1, wherein the device-specific implementation is represented by Application Programming Interface (API) code.

*[see paragraph 16]*

**As per claims 9 and 17, Whipple teaches:**

The system according to claim 1, wherein the device-specific implementation is represented by Java code.

*[see paragraph 18]*

**POINTS OF CONTACT**

\*. Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building

Application/Control Number:  
10/690,605  
Art Unit: 2136

Page 7

401 Dulaney Street  
Alexandria, VA 22314

\*. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Hoang whose telephone number is 571-270-1019. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Daniel L. Hoang/

Examiner, Art Unit 2436